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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

भाग III—खण्ड ३

[PART III—SECTION 3]

लघु प्रशासनों से सम्बन्धित अधिसूचनाएँ

Notifications relating to Minor Administrations

UNION TERRITORY OF DADRA AND NAGAR HAVELI
ADMINISTRATION OF DADRA AND NAGAR HAVELI

Silvassa, the 11th August 1977

No. ADM/LAW/44(30)/77.—The following draft of Rules which is proposed to be issued under Section 32 of the Workmen's Compensation Act, 1923 (No. 8 of 1923), in its application to the Union Territory of Dadra and Nagar Haveli is published as required by sub-section (1) of section 34 of the said Act for the information of all persons likely to be affected thereby and notice is hereby given that the said draft Rules will be taken into consideration by the Administrator, Dadra and Nagar Haveli after three months from the date of its publication in the Government of India Gazette;

2. Any objections or suggestions which may be received by the Secretary to the Administrator, Dadra and Nagar Haveli Silvassa from any person with respect of the said draft Rules before the aforesaid period will be considered by the Administrator, Dadra and Nagar Haveli.

DRAFT RULES

No. ADM/LAW/44/77.—In exercise to the powers conferred by Section 32 of the Workmen's Compensation Act, 1923 (No. 8 of 1923) the Administrator, Dadra and Nagar Haveli, hereby makes the following Rules, namely :

PART I

PRELIMINARY

1. *Short title.*—These rules may be called the Dadra and Nagar Haveli Workmen's Compensation Rules, 1977.

2. *Definitions.*—In these rules, unless the context otherwise requires—

- (a) "the act" means the Workmen's Compensation Act, 1923 in its application to the Union Territory of Dadra and Nagar Haveli.
- (b) "Form" means a form appended to these rules;
- (c) "Schedule" means the Schedule appended to these rules;
- (d) "Section" means a section of the Act.

PART II

REVIEW OF HALF-MONTHLY PAYMENTS AND COMMUTATION THEREOF

3. *When application may be made without medical certificate.*—Application for review of a half-monthly payment under section 6 may be made without being accompanied by a medical certificate—

- (a) by the employer on the ground that since the right to compensation was determined the Workmen's wages have increased;

- (b) by the workman, on the ground (i) that since the right to compensation was determined his wages have diminished, or
- (ii) that the employer, having commenced to pay compensation, has ceased to pay the same, notwithstanding the fact that there has been no such change in the workman's condition as to warrant such cessation;
- (c) either by the employer or by the workman, on the ground (i) that the determination of the rate of compensation for the time being in force was obtained by fraud or undue influence or other improper means, or
- (ii) that in the determination of compensation there has been a mistake or an error apparent on the face of the record.

4. Procedure on application for review.—If, on an application for review by an employer in which the reduction or discontinuance of half monthly payments is sought it appears to the Commissioner that there is a reasonable ground for believing that the employer has a right to such reduction or discontinuance he may at any time issue an order with holding the half-monthly payments in whole or in part pending his decision on the application.

PART III

DEPOSIT OF COMPENSATION

5. Deposit under section 8(1).—(1) An employer depositing compensation with the Commissioner under sub-section (1) of section 8, in respect of a workman whose injury has resulted in death shall furnish therewith a statement in Part I of Form A, and he shall be given a receipt therefor in Form B. In other cases of deposits with the Commissioner under sub-section (1) of section 8, the employer shall furnish a statement in Part II of Form A and shall be given a receipt in Form B.

(2) If, when depositing compensation in respect of fatal accidents, the employer indicates in the statement referred to in sub-rule (1) that he desires to be made a party to the distribution proceedings, the Commissioner shall before allotting the sum deposited as compensation afford to the employer as opportunity of establishing that the person to whom he proposes to allot such sum is not dependant of the deceased workman or, as the case may be, that no one of such persons is such a dependant.

(3) The statement of disbursement to be furnished on application by the employer under sub-section (4) of section 8 shall be in Form C.

6. Publication of list of deposits.—The Commission shall cause to be displayed in a prominent position outside his office an accurate list of the deposits received by him under sub-section (1) of section 8, together with the names and addresses of the depositors and of the workman in respect of whose death or injury the deposits have been made.

7. Application by dependants for deposit of compensation.

(1) A dependant of a deceased workman may apply to the Commissioner for the issue of an order to deposit compensation in respect of the death of the workman. Such application shall be made in Form D.

(2) If compensation has not been deposited, the Commissioner shall dispose of such application in accordance with the provisions of Part VI of these rules.

Provided that—

- (a) the Commissioner may, at any time before issue are framed, cause notice to be given in such manner as he thinks fit to all or any of the dependants of the deceased workman who have not joined in the application, requiring them, if they desire to join therein, to appear before him on a date specified in this behalf;
- (b) any defendant to whom such notice has been given and who fails to appear and to join in the application on the date specified in the notice shall not

be permitted thereafter to claim that the employer is liable to deposit compensation unless he satisfies the Commissioner that he was prevented by any sufficient cause from appearing when the case was called on for hearing.

(3) If, after completing the enquiry into the application, the Commissioner issues an order requiring the employer to deposit compensation in accordance with sub-section (1) of section 8, nothing in sub-rule (2) shall be deemed to prohibit the allotment of any part of the sum deposited as compensation to a dependant of the deceased workman who failed to join in the application.

8. Deposit under section 8(2).—An employer depositing compensation in accordance with sub-section (2) of section 8, shall furnish therewith a statement in Form E, and he shall be given a receipt therefor in Form F.

9. Investment of money.—Money in the hands of the Commissioner may be invested for the benefit of the dependants of a deceased workman in accordance with the law, or rules, as the case may be under clause (2) of article 283 of the Constitution of India.

PART IV

NOTICE, STATEMENT AND REPORT OF ACCIDENTS

10. Notice and Statement under section 10-A(1).—The notice sent by a Commissioner to any employer under section 10A shall be in Form G and shall be accompanied by a blank copy of Form H.

(2) The statement submitted by an employer under the said section 10A shall be in Form H.

11. Report of fatal accidents.—The report required by section 10B shall be in Form I.

12. Right of employer to present memorandum when information received.—(1) Any employer who has received information of an accident may at any time, notwithstanding the fact that no claim for compensation has been instituted in respect of such accident, present to the Commissioner a memorandum supported by an affidavit made by himself or by any person subordinate to him having knowledge of the facts stated in the memorandum, embodying the results of any investigation or inquiry which has been made into the circumstances or cause of the accident.

(2) A memorandum presented under sub-rule (1) shall on payment of the requisite fee be recorded by the Commissioner.

PART V

MEDICAL EXAMINATION

13. Workman not to be required to submit to medical examination save in accordance with rule.—A workman who is required by subsection (1) of section 11 to submit himself for medical examination shall be bound to do so only in accordance with the rules contained in this Part and not otherwise.

14. Examination when workman and medical practitioner both present on premises.—When such workman is present at the employer's premises, and the employer officer to have him examined free of charge by a qualified medical practitioner who is so present, the workman shall submit himself for such examination forthwith.

15. Examination in other cases.—In cases to which rule 14 does not apply the employer may—

(a) send the medical practitioner to the place where the workman is residing for the time being in which case the workman shall submit himself for medical examination on being requested to do so by the medical practitioner, or

(b) send to the workmen an offer in writing to have him examined free of charge by a qualified medical

practitioner, in which case the workman shall submit himself for medical examination at the employer's premises or at such other place in the vicinity as is specified in such offer and at such time as is so specified :

Provided that—

- (i) the time so specified shall not, save with the express consent of the workman, be between the hours of 7 p.m. and 6 a.m., and (ii) where the workman's condition renders it impossible or inadvisable that he should leave the place where he is residing for the time being, he shall not be required to submit himself for medical examination, save at such place.

16. Restriction on number of examination.—A workman who is in receipt of a half-monthly payment shall not be required to submit himself for medical examination elsewhere than at the place where he is residing for the time being more than twice in the first month following the accident or more than once in any subsequent month.

17. Examination after suspension of right to compensation.—If a workman whose right to compensation has been suspended under sub-section (2) of sub-section (3) of section 11 subsequently offers himself for medical examination, his examination shall take place on the employer's premises or at such other place in the vicinity thereof as may be fixed by the employer, and at a time to be fixed by the employer not being, save with the express consent of the workman, more than 72 hours after the workman has so offered himself.

18. Examination of women.—(1) No woman shall without her consent be medically examined by a male practitioner, save in the presence of another woman.

(2) No woman shall be required to be medically examined by a male practitioner if she deposits a sum sufficient to cover the expenses of examination by a female practitioner.

PART VI PROCEDURE

19. Introductory.—Save as otherwise provided in these rules, the procedure to be followed by Commissioner in the disposal of cases under the Act or these rules and by the parties in such cases shall be regulated in accordance with the rule's contained in this Part.

20. Applications.—(1) Any application of the nature referred to in section 22 may be sent to the Commissioner by registered post or may be presented to him or to any of his subordinate authorised by him in this behalf and, if so sent or presented, shall unless the Commissioner otherwise directs, be made in duplicate in Form J or Form K, as the case may be or in other appropriate form, if any and, shall be signed by the applicant.

(2) There shall be appended to every such application a certificate signed by the applicant, to the effect that the statement of facts contained in the application is, to the best of his knowledge and belief, accurate.

21. Production of documents.—(1) When the application for relief is based upon a document, the document shall be appended to the application.

(2) Any other document which any party desires to tender in advance shall be produced at or before the first hearing.

(3) Any document which is not produced at or within the time specified in sub-rule (1) or (2), as the case may be, shall not, without the permission of the Commissioner, be admissible in evidence on behalf of the party who should have produced it.

(4) Nothing in this rule applies to any document which is produced for the purpose of cross-examining a witness or is shown to a witness for refreshing his memory.

22. Application presented to wrong Commissioner.—(1) If it appears to the Commissioner on receiving an application that it should have been presented to another

Commissioner, he shall return it to the applicant after endorsing thereon the dates of presentation and return thereof, the reason for returning it and the designation of the Commissioner to whom it should be presented.

(2) If it appears to the Commissioner at any subsequent stage that an application should have been presented to another Commissioner, he shall send the application to the Commissioner empowered to deal with it and shall in form the applicant (and the opposite party, if any) to whom a copy of the application has been sent under rule 20, accordingly.

(3) The Commissioner to whom an application is transferred under sub-rule (2) may continue the proceedings as if the previous proceedings or any part of them had been taken before him, if he is satisfied that the interests of the parties will not thereby be prejudiced.

23. Examination of applicant.—(1) On receiving an application of the nature referred to in section 22, the Commissioner may examine the applicant on oath, or may send the application to any officer authorised by the State Government in this behalf and direct such officer to examine the applicant and his witnesses and forward the record thereof to the Commissioner.

(2) The substance of any examination made under sub-rule (1) shall be recorded in the manner provided for the recording of evidence in section 25.

24. Summary dismissal of application.—(1) The Commissioner may after considering the application and the record of the examination, if any, or the applicant under rule 23, summarily dismiss the application, if, for reasons to be recorded, he is of the opinion that there are no sufficient grounds for proceeding thereon.

(2) The mere dismissal of the application under sub-rule (1) shall not preclude the applicant from presenting a fresh application for the settlement of the same matter.

25. Preliminary inquiry into application.—If the application is not dismissed under rule 24, the Commissioner may, for reasons to be recorded, call upon the applicant to produce evidence in support of the application before calling upon any other party, to defend it and if upon considering such evidence, the Commissioner is of the opinion that there is no case for the relief claimed, he may dismiss the application with a brief statement of his reasons for so doing.

26. Notice to opposite party.—If the Commissioner does not dismiss the application under rule 24 or rule 25, he shall send to the party from whom the applicant claims relief (hereinafter referred to as "the opposite party") a copy of the application, together with a notice of the date on which he will dispose of the application, and may call upon the parties to produce on that date any evidence which they may wish to tender.

27. Appearance and Examination of opposite party.—(1) The opposite party may, and if so required by the Commissioner, shall, at or before the first hearing or within such time as the Commissioner may permit, file a written statement dealing with the claim raised in the application, and any such written statement shall form part of the record.

(2) If the opposite party contests the claim, the Commissioner may, and, if no written statement has been filed, shall proceed to examine him upon the claim and shall reduce the examination to writing.

28. Framing of issues.—(1) After considering any written statement and the record of any examination of the parties, the Commissioner shall ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues upon which the right decision of the case appears to him to depend.

(2) In recording the issues, the Commissioner shall distinguish between those issues which in his opinion relate to questions of fact and those which relate to questions of law.

29. Power to postpone trial of issues of fact where issues of law arise.—When issues both of law and of fact arise in the same case and the Commissioner is of the opinion that the case may be disposed of on the issues of law only, he may try those issues first and for that purpose may, if he thinks fit, postpone the determination of the issues of fact until after the issues of law have been determined.

30. Diary.—The Commissioner shall maintain under his hand a brief diary of the proceedings on an application.

31. Reasons for postponement to be recorded.—If the Commissioner is unable to dispose of an application at one hearing, he shall record the reasons which necessitate a postponement.

32. Judgement.—(1) The Commissioner shall, while passing orders, record concisely a judgment, his finding on each of the issues framed and his reasons for such finding.

(2) The Commissioner shall, at the time of signing and dating his judgement, pronounce his decision, and thereafter no addition or alteration shall be made to the judgement other than the correction of a clerical or arithmetical mistake arising from any accidental slip or omission.

33. Summoning of witnesses.—If an application is presented by any party to the proceedings for the citation of witnesses, the Commissioner shall, on payment of the requisite expenses and fees, issue summonses for the appearance of such witnesses, unless he considers that their appearance is not necessary for the just decision of the case.

34. Exemption from payment of costs.—If the Commissioner is satisfied that the applicant is unable, by reason of poverty, to pay the prescribed fees, he may remit any or all of such fees. If the case is decided in favour of the applicant, the prescribed fees which, had they not been remitted, would have been due to be paid, may be added to the costs of the case and recovered in such manner as the Commissioner in his order regarding costs directs.

35. Right of entry for local inspection.—A Commissioner before whom any proceeding relating to an injury by accident is pending may at any time enter the place where the workman was injured, or where the workman ordinarily performed his work, for the purpose of making a local inspection or of examining any person likely to be able to give information relevant to the proceedings;

Provided that the Commissioner shall not enter any premises of any industrial establishment except during the ordinary working hours of that establishment, save with the permission of the employer or of some person directly responsible to him for the management of the establishment.

36. Procedure for local inspection.—(1) If the Commissioner proposes to conduct a local inspection with a view to examining on the spot the circumstances in which an accident took place, he shall give the parties or their representatives notice of his intention to do so, unless in his opinion the urgency of the case renders the giving of such notice impracticable.

(2) Such notice may be given orally or in writing, and in the case of an employer, may be given to any person upon whom notice of a claim can be served under subsection (2) of section 10, or the representative of any such person.

(3) Any party, or his representative may accompany the Commissioner at a local inspection.

(4) After making a local inspection, the Commissioner shall note briefly in a memorandum any facts observed and shall show the memorandum to any party who desired to see the same, and on payment of the requisite fee shall supply any party with a copy therof.

(5) The memorandum shall form part of the record.

37. Power of summary examination.—(1) The Commissioner may, during a local inspection or at any other time, save at a formal hearing of a case pending before him, examine summarily any person likely to be able to give information relative to such case, whether such person has been,

or is to be, called as a witness in the case or not, and whether any or all of the parties are present or not.

(2) No oath shall be administered to a person examined under sub-rule (1).

(3) Statement made by a person examined under sub-rule (1), if reduced to writing shall, not be signed by the person making the statement, nor shall it, except as hereinafter provided, be incorporated in the record or utilised by the Commissioner for the purpose of arriving at a decision in the case.

(4) If a witness who has been examined under sub-rule (1), makes in his evidence any statement contradicting in material particulars any statement made by him in such examination and reduced to writing, the Commissioner may call his attention to such statement, and shall in that case direct that the parties be furnished with the relevant part or such statement for the purpose of using it in examining or cross-examining the witness.

(5) Any statement or part of a statement which is furnished to the parties under sub-rule (4) shall be incorporated in the record.

(6) Where a case is settled by agreement between the parties, the Commissioner may incorporate in the record any statement made by a person examined under sub-rule (1) and may utilise such statement for the purpose of justifying his acceptance of, or refusal to accept, the agreement reached.

38. Agreement to abide by Commissioner's decision.—(1) If a party expresses in writing his willingness to abide by the decision of the Commissioner, the Commissioner shall ascertain whether the other party also is willing so to abide.

(2) If the other party is so willing, the fact of his willingness shall be recorded in writing and the record thereof shall be signed by him.

(3) If the other party is not willing to abide by the Commissioner's decision, the party which had initially expressed his willingness to abide by the decision of the Commissioner shall not be bound so to abide.

39. Procedure where indemnity claimed under section 12(2) (1) Where the opposite party claims that if compensation is recovered from him he would be entitled, under sub-section (2) of section 12, to be indemnified by a person not being a party to the case, he shall, when first called upon to defend the application, present a notice of such claim to the Commissioner accompanied by the requisite fee, and the Commissioner shall thereupon issue a notice to such person in Form.

(2) If any person served with a notice under sub-rule (1) desires to contest the applicant's claim for compensation or the opposite party's claim to be indemnified, he shall appear before the Commissioner on the date fixed for the hearing of the case or on any date to which the case may be adjourned and, if he so appears, he shall have all the rights of a party to the proceedings. If he does not so appear he shall be deemed to have admitted the validity of any award which may be made against the opposite party and to have admitted his own liability to indemnify the opposite party for any compensation which may be recovered from him :

Provided that, if any person so served appears subsequently and satisfies the Commissioner that he was prevented by any sufficient cause from appearing, the Commissioner shall, after giving notice to the applicant and the aforesaid opposite party, hear such person, and may set aside or vary any award made against such person upon such terms as the Commissioner thinks just.

(3) If any person served with a notice under sub-rule (1) whether or not he desires to contest the applicant's claim for compensation or the opposite party's claim to be indemnified, claims that being a contractor he is himself a principal and is entitled to be indemnified by a person standing to him in the relation of a contractor from whom the workman could have recovered compensation he shall on or before the date fixed in the notice under sub-rule (1) present a notice of such claim to the Commissioner accompanied by the requisite fee and the Commissioner shall thereupon issue notice to such person in Form-M.

(4) If any person served with a notice under sub-rule (3) desires to contest the applicant's claim for compensation or the claim under sub-rule (3) to be indemnified, he shall appear before the Commissioner on the date fixed in the notice in Form K or on any date to which the case may be adjourned and, if he so appears, shall have all the rights of a party to the proceedings. If he does not so appear he shall be deemed to have admitted the validity of any award which may be made against the original opposite party or the person served with a notice under sub-rule (1) and to have admitted his own liability to indemnify the party against whom such award is made for any compensation which may be recovered from him :

Provided that, if any person so served appears subsequently and satisfied the Commissioner that he was prevented by any sufficient cause from appearing, the Commissioner shall after giving notice to all parties on the record, hear such person, and may set aside or vary any award made against such person upon such terms as the Commissioner thinks just.

(5) In any proceeding in which a notice has been served on any person under sub-rule (1) or sub-rule (3), the Commissioner shall, if he awards compensation, record in his judgment a finding in respect of each of such person, whether he is or is not liable to indemnify any of the opposite parties, and shall specify the party, if any, whom he is liable to indemnify.

40. *Procedure in connected cases.*—(1) Where two or more cases pending before a Commissioner arise out of the same accident, and any issue involved is common to two or more such cases, such cases may, so far as the evidence hearing on such issue is concerned, be heard simultaneously.

(2) Where the procedure specified in sub-rule (1) is followed, the evidence bearing on a common issue shall be recorded in the proceedings of one case, and the Commissioner shall certify under his hand in the proceeding of any other such case, the extent to which the evidence so recorded applies to such other case, and the fact that the parties to such other case had the opportunity of being present, and, if they were present, of cross-examining the witnesses.

41. *Certain provisions of Code of Civil Procedure, 1908 apply.*—Save as otherwise expressly provided in the Act of these rules, the following provisions of the First Schedule to the Code of Civil procedure, 1908, in its application to the Union Territory of Dadra and Nagar Haveli namely, those contained in Order V, rules 9 to 13 and 15 to 30; Order IX; Order XIII, rules 3 to 10; Order XVI; rules 2 to 21; Order XVII; Order XVIII, rules 1 and 2; and Order XXVI, rules 1 to 8, shall apply to proceedings before a Commissioner, in so far as they may be applicable thereto :

Provided that—

- (a) for the purpose of facilitating the application of the said provisions the Commissioner may construe them in such manner without affecting the substance thereof as may be necessary or proper in regard to the matter before him, and
- (b) the Commissioner may, for sufficient reasons which shall be recorded, proceed otherwise than in accordance with the said provisions, if he is satisfied that the interests of the parties will not thereby be prejudiced.

42. *Provisions regarding Signature on Form.*—Any Form other than a receipt for compensation, which is by these rules required to be signed by a Commissioner may be signed under his direction and on his behalf by any officer subordinate to him appointed by him in writing for this purpose.

43. *Apportionment of compensation among dependents.*—The provisions of this Part, except those contained in rules 26, 27 and 39 shall, as far as may be, apply in the case of any proceedings relating to the apportionment of compensation among dependents of a deceased workman.

PART VII

TRANSFER

44. *Transfer for report.*—(1) A Commissioner transferring any matter to another Commissioner for report in accordance

with sub-section (2) of section 21 shall, along with the documents referred to in that sub-section transmit to such other Commissioner a concise statement, in the form of questions for answer of the matter on which report is required.

2. A Commissioner to whom a case is so transferred for report shall not be required to report on any question of law.

45. *Transmission of money.*—Money transmitted by one Commissioner to another in accordance with sub-section (2) of section 21 shall be transmitted either by remittance transfer receipt, or by money order, or by messenger, as the Commissioner transmitting the money may direct.

PART VIII

APPOINTMENT OF REPRESENTATIVES

46. *When representatives to be appointed by Commissioner.*—Where any party to a proceeding is under the age of fifteen years or is otherwise unable to make an appearance, the Commissioner shall appoint some suitable person, who consents to the appointment, to represent such party for the purpose of the proceeding.

47. *When new representative to be appointed.*—If the Commissioner considers that the interests of any party for whom a representative has been appointed under rule 46 are not being adequately protected by that representative or if the person appointed to act as representative dies or becomes incapable of acting, or otherwise ceases to act as such, the Commissioner shall appoint in his place another person who consents to the appointment.

PART IX

RECORD OF MEMORANDA OF AGREEMENT

48. *Form of Memorandum.*—Memoranda of agreement sent to the Commissioner under sub-section (1) of section 28 shall, unless the Commissioner otherwise directs, be in duplicate, and shall be in as close conformity as the circumstances of the case admit with Form N or Form O or Form P, as the case may be.

49. *Procedure where Commissioner not inclined to refuse to record memorandum.*—(1) On receiving a memorandum of agreement, the Commissioner shall, unless he considers that there are grounds for refusing to record the memorandum, fix a date for recording the same, and shall issue a notice in writing in Form Q to the parties concerned:

Provided that, the notice may be communicated orally to any parties who are present at the time when notice in writing would otherwise issue.

(2) On the date so fixed, the Commissioner shall record the memorandum unless, after hearing any of the parties who appear and desire to be heard, he considers that it ought not to be recorded :

Provided that, the issue of a notice under sub-rule (1) shall not be deemed to prevent the Commissioner from refusing to record the memorandum on the date so fixed, even if no objection be made by any party concerned.

(3) If on such date the Commissioner decides that the memorandum ought not to be recorded he shall inform the parties present of his decision and of the reasons therefor, and if any party desiring the memorandum to be recorded is not present, he shall send the information to that party in Form R.

50. *Procedure where Commissioner inclined to refuse to record memorandum.*—(1) If, on receiving a memorandum of agreement, the Commissioner considers that there are grounds for refusing to record the same, he shall fix a date for hearing the party desiring the memorandum to be recorded, and shall inform such party and, if he thinks fit, any other party concerned, of the date so fixed and of the grounds on which he considers that the memorandum should not be recorded.

(2) If the parties to be informed are not present, a written notice shall be sent to them in Form S or Form T, as the case may be, and the date fixed in such notice shall not be earlier than the expiry of seven days after the date of the issue thereof. (3) If, on the date fixed under sub-rule (1), the party desiring the memorandum to be recorded shows

adequate cause for recording if the Commissioner may, if information has already been given to all the parties concerned, record the agreement. If information has not been given to all such parties, he shall proceed in accordance with rule 49.

(4) If, on the date so fixed, the Commissioner refuses to record the memorandum, he shall send a notice in Form R to any party who did not receive information under sub-rule (1).

51. *Procedure on refusal to record memorandum.*—(1) If in any case the Commissioner refuses to record a memorandum of agreement, he shall briefly record his reasons for such refusal.

(2) If the Commissioner refuses to record a memorandum of agreement, he shall not pass any order directing the payment of any sum or amount over and above the sum specified in the agreement, unless opportunity has been given to the party liable to pay such sum to show cause why it should not be paid.

(3) Where the agreement is for the redemption of half-monthly payments by the payment of lump sum, and the Commissioner considers that the memorandum of agreement should not be recorded by reason of the inadequacy of the amount of such sum as fixed in the agreement, he shall record his estimate of the probable duration of the disablement of the workman.

52. *Registration of memorandum accepted for record.*—In recording a memorandum of agreement, the Commissioner shall cause the same to be entered in a register in Form U and shall cause an endorsement to be entered under his signature on a copy of the memorandum to be retained by him in the following terms, namely :—

"This memorandum of agreement bearing serial No. of 19..... in the register has been recorded this..... day of
(Signature)

Commissioner."

PART X

SCALE OF COSTS AND FEES

53. *Costs.*—(1) Where the Commissioner directs that any costs shall not follow the event, he shall state his reasons therefore in writing.

(2) The costs which may be awarded shall include—

- (a) the charges necessarily incurred on account of court fees;
- (b) the charges necessarily incurred on subsistence money to witnesses; and
- (c) pleaders' fees on the scale hereinafter provided for.

(3) (a) In any proceeding involving an application for compensation in the form of a lump sum, an application for review or an application for indemnification, the fee allowed shall be 25 rupees, subject to a special order of the Commissioner to diminution to a sum not less than 15 rupees and to increase to a sum not more than 150 rupees for each such proceeding. In all other applications, the fee allowed shall be 15 rupees, subject to increase by special order to a sum not exceeding 50 rupees.

(b) No fee shall be charged in excess of the amount determined under clause (a).

(4) Where a party engages more pleaders than one to conduct or defend a case, he shall be allowed one set of costs only.

(5) Where several defendants having substantially one defence to make employ several pleaders, they shall be allowed one set of costs only. In such cases, it will be for the applicant, at the time of hearing, to ask for a direction of this Commissioner that separate costs be not allowed.

(6) When two or more defendants having different substantial defence have engaged the services of one pleader, they

shall be allowed separate sets of costs. In such a case, it will be for the defendants interested to apply at the bearing for separate costs.

(7) When several defendants having different defence are represented by separate pleaders, they shall be entitled to separate costs.

(8) The Commissioner shall, out of the amount deposited as compensation and costs, arrange to disburse the amount of compensation and costs in accordance with the order made in that behalf.

54. *Fees.*—The fee specified in the third column of the Schedule shall be payable in respect of the proceeding specified against it in the second column thereof.

55. *When applicant may be required to deposit deficiency of fees.*—If in any case the Commissioner considers that he ought to pass orders granting relief of a kind or to an extent different from that claimed by the applicant, and if the fee which would have been payable by the applicant on an application for the relief which the Commissioner considers to be due is greater than the fee which has actually been paid, the Commissioner may require the applicant to deposit fees to the extent of the difference.

56. *Manner of collecting fees.*—All fees payable under these rules shall be collected in the same manner as that laid down for collection of court fees under Bombay Court Fees Act, 1959.

PART XI

MAINTENANCE OF REGISTERS' LANGUAGE OF THE COURT RECORDS, CERTIFIED COPIES, AND ALLOWANCE TO WITNESSES

57. *Register of application.*—All applications presented to the Commissioner shall be registered in a register to be maintained in Form V.

58. *Register of fatal accidents.*—Every Commissioner shall maintain a separate register in Form W of fatal accidents which come to his knowledge either on account of deposits made by or on behalf of employers, or because of application made by dependants of a deceased workman for an order for deposit and payment of compensation.

59. *Register of non-fatal accidents.*—Every Commissioner shall maintain a separate register in Form X of non-fatal accidents which come to his knowledge in any of the following ways :—

- (a) On account of an application for registration of memoranda of agreement;
- (b) On account of an application for commutation of half-monthly payments;
- (c) On account of an amount of compensation deposited with the Commissioner under sub-section (2) of section 8;
- (d) on account of an application for settlement of claim made by an injured workman.

60. *Language of the record.*—The record of the Commissioner shall be kept in the English of the Gujarati language.

61. *Supply of certified copies to parties.*—Certified copies of any document in any proceeding before a Commissioner shall be supplied to a party in the same manner as that laid down in the rules contained in Chapter XXVI (in so far as they are consistent with the Act) of the Civil Manual issued by the High Court of Bombay for the guidance of Civil Courts, or corresponding rules for the time being in force for the guidance of such Court in the State of Gujarat.

62. *Allowances to witnesses.*—Where a Commissioner has to issue a summons to a witness either at the instance of a party to a proceeding before him, or on his own initiative, the allowances to be paid to the witnesses shall be on the same scales as those obtaining in that behalf of the Civil Court having jurisdiction in that area.

PART XII

ASSESSORS

63. *Fees to assessors.*—Where in pursuance of the provision of sub-section (3) of section 20, any person possessing special knowledge of any matter relevant to the matter under inquiry is chosen by the Commissioner to assist him in holding the inquiry as shall be entitled by the such fee per days as the Commissioner may fix, subject to a maximum of rupees fifty and a minimum of rupees twenty :

Provided that, he shall be entitled to an additional fee of rupees ten.—

- (a) for each additional case if he require to assist in more than one case on the same day; and
- (b) for each of the days other than the first day.

PART II

MISCELLANEOUS PROVISIONS

64. *Displaying of abstracts of Act and Rules by employers.*—(1) A notice containing the abstracts of the Act and the rules made thereunder shall be displayed on the notice board or in any other conspicuous manner by the employer in English and in a language understood by the majority of the workers employed by him.

(2) The notice shall be in Form Y.

SCHEDULE

(See rule 54)

| No. | Description of Proceeding | Amount of fee |
|---|--|--|
| 1 | 2 | 3 |
| I Application for compensation :— | | |
| | (a) Where compensation is claimed in the form of recurring payments. | Fifty paise. |
| | (b) Where compensation is claimed in the form of a lump sum. | One rupee where the sum does not exceed 500 rupees plus one rupee for each additional sum of 500 rupees or fraction thereof. |
| II Application for compensation : | | |
| | (a) by agreement between the parties. | Fifty paise. |
| | (b) in all other cases. | Two rupees. |
| III Application for the deposit of compensation : | | |
| | (a) under section 8(1) of the Act. | NIL |
| | (b) under section 8(2) of the Act. (in respect of each person to whom compensation is payable). | Fifty paise. |
| IV Application for distribution by dependants, for each dependant. | | |
| | | One rupee. |
| V Application for review or commutation : | | |
| | (a) where the review claimed is the continuance, increase, decrease, or ending of half-monthly payments. | Fifty paise. |
| | (b) where the half-monthly payments are sought to be commuted into a lump sum. | Two rupees. |
| | (c) in all other cases. | One rupee. |

| 1 | 2 | 3 |
|--|---|---|
| VI Application for the registration of an agreement : | | |
| | (a) where the application or the memorandum of agreement is signed by both parties. | Nil. |
| | (b) in all other cases. | Fifty paise. |
| VII Application to summon witnesses : | | |
| | (a) for the first witness mentioned in the application. | Fifty paise |
| | (b) for every subsequent witness. | Twenty five paise. |
| VIII Application for indemnification. | | |
| | | Three rupees. |
| IX Application for the recovery of compensation : | | |
| | (a) under an order already passed by the Commissioner. | Fifty paise. |
| | (b) in all other cases. | The same fee as that payable on a similar application for compensation. |
| X Application or memorandum not otherwise provided for. | | |
| | | Fifty paise. |

FORM A

(See Rule 5)

PART I

Deposit to Compensation for Fatal Accident [Section 8(1) of the Workmen's Compensation Act, 1923] Compensation amounting to Rs. is hereby presented for deposit in respect of injuries resulting in the death of workman, whose particulars are given below, which occurred on.....

Name.....

Father's name.....

(Husband's name in the case of married woman, or widow).

Caste.....

Local Address.....

Permanent address.....

His/Her monthly wages are estimated at Rs. He/She was over/under the age of 15 years at the time of his/her death.

2. The said workman had, prior to the date of his/her death, received the following payments, namely :

Rs. On Rs. On

Rs. On Rs. On

Rs. On Rs. On

amounting in all to Rs.

3. As advance of Rs. has been made on account of compensation to being his/her dependant.

4. *I do not desire to be made a party to the proceedings for distribution of the aforesaid compensation.

Date..... 19

Employer.

*An employer desiring to be made a party to the proceedings shall strike out the words "do not".

PART II

Deposit of Compensation for Non-fatal Accident to a woman or person under legal disability.

[Section 8(1) of the Workmen's Compensation Act, 1923]

Compensation amounting to Rs. is hereby presented for deposit in respect of injuries sustained by residing at on 19 resulting in the loss of temporary disablement. His/her monthly wages are estimated at Rs. He/She was over/under the age of 15 years at the time of the accident.

2. The said injured workman has prior to the date of the deposit received the following half-monthly payments, namely :

| | | | |
|----------|----------|----------|----------|
| Rs. | On | Rs. | On |
| Rs. | On | Rs. | On |
| Rs. | On | Rs. | On |

Dated 19 Employer.

FORM B

(See Rule 5)

RECEIPT FOR COMPENSATION

[Deposited under section 8(1) of the Workmen's Compensation Act, 1923]

Book No. Receipt No. Register No.

Depositor.....

Deceased or injured workman.....

Date of deposit..... 19.....

FORM C

(See Rule 5)

STATEMENT OF DISBURSEMENTS

[Section 8(4) of the Workmen's Compensation Act, 1923]

Serial No.

Depositor

| Date | Rs. |
|--|--------------|
| Amount deposited | |
| Amount deducted and repaid to the employer under the proviso to Section 8(1) | |
| Funeral expenses paid | |
| Compensation paid to the following dependents | |
| Name | Relationship |
| | |
| | |
| | |
| | |
| Total..... | |

Dated 19 Commissioner.

FORM D

(See Rule 7)

APPLICATION FOR ORDER TO DEPOSIT COMPENSATION

To the Commissioner for Workmen's Compensation residing at applicant(s) Versus residing at Opposite Party.

It is hereby submitted that

(1) workmen employed by (a contractor with) the opposite party on the day of 19 received personal injury by accident arising out of and in the course of his employment resulting in his death on the day of 19 The cause of the injury was (here briefly in ordinary language the cause of the injury)

(2) The applicant(s) is/are dependant (s) of the deceased workman being his

(3) The monthly wages of the deceased amount to Rs. The deceased was over/under the age of 15 years at the time of his death.

* (4) (a) Notice of the accident was served on the day of

(b) Notice was served as soon as practicable.

(c) Notice of the accident was not served (in due time) by reason of

(5) The deceased before his death received as compensation of the total sum of Rs. The applicant (s) is/are accordingly entitled to receive a lump sum payment of Rs.

You are therefore requested to award to the applicant(s) the said compensation or any other compensation to which he/they may be entitled.

Dated 19 Applicant(s)

*Strike out the clauses which are not applicable.

FORM E

(See Rule 8)

Deposit of Compensation for Non-Fatal Accidents, other than to a woman or person under legal disability.

[Section 8(2) of the workmen's Compensation Act, 1923]

Compensation amounting to Rs. is hereby presented for deposit in respect of permanent/temporary injuries sustained by residing at which occurred on 19

Dated 19 Employer.

FORM F

(See Rule 8)

RECEIPT FOR COMPENSATION

[Deposited under section 8(2) of the Workmen's Compensation Act, 1923]

Book No. Receipt No. Register No.

Depositor.....

In favour of

Date of deposit 19

Sum deposited Rs.

Commissioner.

FORM G

(See Rule 10)

NOTICE

WHEREAS I have received information that (1) a workman employed by you in (2) has died as the result of an accident arising out of and in the course of his employment, I hereby require you in accordance with section 10A of the Workmen's Compensation Act, 1923, to submit to me within thirty days of the receipt of this notice the enclosed Form H with the

particulars required in paragraphs 1, 2 and 3 and the particulars required in either paragraphs 4 or duly filled in. In the event of your admitting liability to pay compensation, the necessary deposit must under sub-section (2) of the said section 10A, be made within thirty days of the receipt of this notice.

Dated 19 Commissioner.

- (1) Here insert the name of the workers.....
 (2) Here insert the name of the establishment.....

FORM H
(See Rule 10)

1. In reply to your notice dated the 19.... which was received by me on the 19...., it is submitted that (1) residing at a, workman over/under 15 years of age employed in (2) met with an accident on 19.... The monthly wages of the deceased amount to Rs.

2. The circumstances in which the death of the workman occurred were as follows :

3. The deceased left the following dependant(s) namely :—

*4. I admit liability to pay as compensation, on account of the deceased's death, the amount of Rs. which will be deposited with you on the 19.... was before

5. I disclaim liability to pay compensation on account of the deceased's death on the following grounds :

Employer.

- (1) Here insert the name of the workman.
 (2) Here insert the name of the establishment.
 (3) Here insert the name(s) and address(es) where, known.

*Strike out the paragraph which is not applicable.

FORM I
(See Rule 11)

REPORT OF FATAL ACCIDENTS OR SERIOUS BODILY INQUIRY

TO

Sir,

I hereby submit the following report of an accident which occurred on (date), at (here enter details of premises) and which resulted in the death of/serious bodily injury to/ the workman/workmen whose particulars are given in the statement annexed.

2. The circumstances in which the death/serious bodily injury/occurred/to the workman/workmen were as under :

- (a) time of the accident
- (b) place where the accident occurred
- (c) manner in which deceased was/were employed at the time
- (d) cause of the accident
- (e) any other relevant particulars

Yours faithfully,

(Signature and designation of persons making the report).

STATEMENT

| Name | Sex | Age | Nature of employment | Full postal address |
|------|-----|-----|----------------------|---------------------|
|------|-----|-----|----------------------|---------------------|

2-228G/77

FORM J
(See Rule 20)

APPLICATION FOR COMPENSATION BY WORKMAN

To the Commissioner for Workmen's Compensation.

residing at , Applicant,
Versus

residing at , Opposite Party.

It is hereby submitted that—

(1) the applicant, a workman employed by (a contractor with) the opposite party on the day of 19...., received personal injury by accident arising out of and in the course of his employment.

The cause of the injury was (here insert briefly in ordinary language the cause of the injury)

(2) the applicant sustained the following injuries, namely :

(3) the monthly wages of the applicant amount to Rs. the applicant is over/under the age of 15 years.

*4. (a) Notice of the accident was served on the day of
 (b) Notice was served as soon as practicable.

(c) Notice of the accident was not served (in due time), by reason of

(5) the applicant is accordingly entitled to receive—

(a) half monthly payment of Rs. from the day of 19.. to day of 19....

(b) a lump sum payment of Rs.

(6) the applicant has taken the following steps to secure a settlement by agreement, namely but it has proved impossible to settle the questions in dispute because

*You are therefore requested to determine the following questions in dispute, namely :—

- (a) Whether the applicant is a workman within the meaning of the Act;
- (b) Whether the accident arose out of or in the course of the applicant's employment;
- (c) Whether the whole or any part of the amount of compensation claimed is due;
- (d) Whether the opposite party is liable to pay such compensation as is due;
- (e) etc., (as required).

Dated 19.... Applicant.

*Strike out the clauses which are not applicable.

FORM K

(See Rule 20)

APPLICATION FOR COMMUTATION

(Under section 7 of the Workmen's Compensation Act, 1923)

To the Commissioner for Workmen's Compensation,

..... residing at applicant,
Versus

..... residing at opposite party.

It is hereby submitted that—

(1) The applicant/opposite party has been in receipt of half-monthly payments from to in respect of temporary disablement by accident arising out of and in the course of his employment.

(2) The applicant is desirous that the right to receive half-monthly payments should be redeemed.

(3) (a) The opposite party is unwilling to agree to the redemption of the right to receive half-monthly payments.

(b) The parties have been unable to agree regarding the sum for which the right to receive half-monthly payments should be redeemed.

You are therefore requested to pass orders—

(a) directing that the right to receive half-monthly payments should be redeemed,

(b) fixing a sum for the redemption of the right to receive half-monthly payments.

Date 19.....
..... Applicant.

FORM L

(See Rule 39)

NOTICE

Whereas a claim for compensation has been made by.... applicant, against and the said has claimed that you are liable under section 12(2) of the Workmen's Compensation Act, 1923, to indemnify him against any compensation which he may be liable to pay in respect of the aforesaid claim, you are hereby informed that you may appear before me on and contest the claim for compensation made by the said applicant or the claim for indemnity made by the opposite party. In default of your appearance you will be deemed to have admitted the validity of any award which may be made against the opposite party and your liability to indemnify the opposite party for any compensation which may be recovered from him.

Dated 19.....
..... Commissioner.

FORM M

(See Rule 39)

NOTICE

Whereas a claim for compensation has been made by.... applicant, against and the said has claimed that is liable under section 12 (2) of the Workmen's Compensation Act, 1923, to indemnify him against any compensation which he may be liable to pay in respect of the aforesaid claim, and whereas the said on notice served has claimed that you stand to him in the relation of a contractor from whom the applicant could have recovered compensation, you are hereby informed that you may appear before me on and contest the claim for compensation made by the said applicant or the claim for indemnity made by the opposite party. In default of your appearance you will be deemed to have admitted the validity of any award which may be made against the opposite party and your liability to indemnify the opposite party for any compensation which may be recovered from him.

Dated 19.....
..... Commissioner.

FORM N

(See Rule 48)

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the day of 19...., personal injury was caused to residing at by accident arising out of and in the course of employment in The said injury has resulted in temporary disablement to the

said workman whereby it is estimated that he will be prevented from earning more than his previous any wage for a period of months. The said workman has been in receipt of half-monthly payments which have continued from the day of 196..... until the day of 196..... amounting to Rs in all. The said workman's monthly wages are estimated at Rs. The workman is over the age of 15 years/will reach the age of 15 years on.....

It is further submitted that the employer of the said workman, has agreed to pay, and the said workman has agreed to accept, the sum of Rs. in full settlement of all and every claim under the Workman's Compensation Act, 1923, in respect of all disablement of a temporary nature arising out of the said accident, whether now or hereafter to become manifest. If is therefore requested that this memorandum be duly recorded.
Dated 196.....

Signature of employer.....

Witness.....

Signature of workman.....

Witness.....

(Note—An application to register an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms, but both signatures should be appended, wherever possible). (Receipt to be filled in when the money has actually been paid).

In accordance with the above agreement, I have this day received the sum of Rs.

Date 19

Seal

Workman.

This money has been paid and this receipt signed in any presence.

The money has been paid and this receipt signed in my presence.

..... Witness

Note—This form may be varied to suit special cases e.g. injury occupational disease, agreement when workman is under legal disability, etc.

FORM O

(See Rule 48)

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the day of 19..... personal injury was caused to residing at by accident arising out of and in the course of his employment in The said injury has resulted in permanent disablement to the said workman of the following nature, namely :

The said workman's monthly wages are estimated at Rs.

The workman is over the age of 15 years/will reach the age of 15 years The said workman has, prior to the date of this agreements, received the following payments, namely :

| | | | |
|----------|----------|----------|----------|
| Rs. | On | Rs. | On |
| Rs. | On | Rs. | On |
| Rs. | On | Rs. | On |

It is further submitted that the employer of the said workman, has agreed to pay, and the said workman has agreed to accept the sum of Rs. in full settlement of all and every claim under the Workmen's Compensation Act, 1928, in respect of the disablement stated above

and all disablement now manifest. It is, therefore, requested that this, memorandum be duly recorded.

Dated 19 ..

Signature of employer

Witness

Signature of workman

Witness'

Note :—An application to register and agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible.

(Receipt to be filed in when the money has actually been paid).

In accordance with the above agreement, I have this day received the sum of Rs.

Dated 19 ..

..... Workman.

Seal

This money has been paid and this receipt signed in my presence.

..... Witness.

Note :—This Form may be varied to suit special cases, e.g. injury by occupational disease, agreement when workman is under legal disability, etc.

FORM P

(See Rule 48)

MEMORANDUM OF AGREEMENT

It is hereby submitted that on the day of 19 Personal injury was caused to residing at by accident arising out of and in the course of employment in The said injury has resulted in temporary disablement to the said workman, who is at present in receipt of wages amounting to Rs. per month/no wages. The said workman's monthly wages prior to the accident are, estimated at Rs. The workman is subject to a legal disability by reason of

It is further submitted that the employer of the workman has agreed to pay and on behalf of the said workman has agreed to accept half-monthly payments at the rate of Rs. for the period of the said temporary disablement. This agreement is subject to the condition that the amount of the half-monthly payments may be varied in accordance with the provisions of the Workmen's Compensation Act, 1923 on account of an alteration in the earnings of the said workman during disablement. It is further stipulated that all rights of commutation under section 7 of the said Act are unaffected by this agreement. It is therefore requested that this memorandum be duly recorded.

Dated 19 ..

Signature of employer

Witness

Signature of workman

Witness

Note :—An application for registration of an agreement can be presented under the signature of one party, provided that the other party has agreed to the terms. But both signatures should be appended, whenever possible.

(Receipt to be filed in when the money has actually been paid).

In accordance with the above agreement, I have this day received the sum of Rs.

..... Workman.

Dated 19 ..

This money has been paid and this receipt signed in my presence.

..... Witness

Note :—This Form may be varied to suit special case, e.g. injury by occupational, disease, etc.

FORM Q

(See Rule 49)

Whereas an agreement to pay compensation is said to have been reached between and and whereas has/have applied for registration of the agreement under section 28 of the Workmen's Compensation Act, 1923, notice is hereby given that the said agreement will be taken into consideration on 19 and that any objections to the registration of the said Agreement should be made on that date. In the absence of valid objections it is my intention to proceed to the registration of the agreement.

Dated 19 ..

Commissioner.

FORM R

(See Rules 49 and 50)

Take notice that registration of the agreement to pay compensation said to have been reached between you and on the 19 has been refused for the following reasons, namely :

.....
.....
.....

Dated 19 ..

Commissioner.

FORM S

(See Rule 50)

Whereas an agreement to pay compensation is said to have been reached between and and whereas has/have applied for registration of the agreement under section 28 of the Workmen's Compensation Act, 1923 and whereas it appears to me that the said agreement ought not to be registered for the following reasons, namely : an opportunity will be afforded to you of showing cause on 19 why the said agreement should be registered. If no adequate cause is shown on that date, registration of the agreement will be refused.

Dated 19 ..

Commissioner.

FORM T

(See Rule 50)

Whereas an agreement to pay compensation is paid to have been reached between and and whereas has/have applied for registration of the agreement under section 28 of the Workmen's Compensation Act, 1923, and whereas it appears to me that the said agreement ought not to be registered for the following reasons, namely :—

.....
.....
an opportunity will be afforded to the said of showing cause on 19 why the said agreement should be registered. Any representation which you may have to make with regard to the said agreement should be made on that date. If adequate cause is then shown, the agreement may be registered.

Dated 19 ..

Commissioner.

FORM—U

(See rule 52)

Register of agreements for the year 19.....

| Serial number | Date of agreement | Date of registration | Employer | Workman | Initials of Commissioner | Reference to order rectifying the Register. |
|---------------|-------------------|----------------------|----------|---------|--------------------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| | | | | | | |

FOMR-V
(See rule 57)

FORM—W

(See rule 58)

Register of Fatal Accidents for the year 19.....

FORM X

(See Rule 59)

Register of Non-fatal accidents for the year 19...

| Serial No. | Date of information | Date of accident | Name of the workman injured | Name of employer | Nature of injury | Amount of compensation and monthly wages. | Date of disposal | Remarks |
|------------|---------------------|------------------|-----------------------------|------------------|------------------|---|------------------|--------------|
| | | | | | Permanent | Temporary | Lump sum | Half-monthly |

FORM Y

(See Rule 64)

Abstract of the Workmen's Compensation Act, 1923, and the rules made thereunder :—

Whom the Act affects.

1. The Act provides for payment by employers to their workmen of compensation for injury by accident arising out of and in the course of employment.

Definitions.

2. "dependent" means any of the following relatives of a deceased workman, namely :—

- (1) a widow, a minor legitimate son, and unmarried legitimate daughter, or a widow mother; and
- (2) if wholly dependent on the earnings of the workman at the time of his death, a son or a daughter who has attained the age of 18 years and who is infirm;
- (3) if wholly or in part dependent on the earnings of the workman at the time of his death;
 - (a) a widower;
 - (b) a parent other than a widowed mother;
 - (c) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate if married and a minor or if widowed and a minor;
 - (d) a minor brother or a unmarried sister or a widowed sister if a minor;
 - (e) a widowed daughter-in-law;
 - (f) a minor child of a pre-deceased son;
 - (g) a minor child of a pre-deceased daughter where no parent of the child is alive, or
 - (h) a paternal grand parent if no parent of the workman is alive.

3. 'Partial disablement' means where the disablement is of temporary nature, such disablement as reduces the earning capacity of the workman in the employment in which he was engaged at the time of the accident and where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time.

4. 'Total disablement' means such disablement as incapacitates a workman for all work which he was capable of performing at the time of the accident.

Workman covered.

5. 'Workman' means any person who is employed on monthly wages not exceeding five hundred rupees in any capacity as is specified in Schedule II to the Act.

It does not include a person whose employment is of a casual nature and who is employed otherwise than for purposes of the employer's trade or business.

Employer's liability for compensation.

6. If personal injury is caused to a workman by accident arising out of and in the course of his employment the employer is liable to pay compensation.

7. Occupational diseases for which compensation is payable—

Anthrax, compressed air illness, poisoning by nitrous fumes, poisoning by 'Organic Phosphorous insecticides, poisoning by

lead, poisoning by phosphorous, poisoning by mercury, poisoning by benzene, chromed ulceration, poisoning by arsenic, pathological manifestations due to radium and other radioactive substances or X-rays, primary, epitheliomatous cancer of the skin, poisoning by halogenated hydrocarbons, poisoning by carbon disulphide occupational cataract due to infrared radiation, telegraphist's cramp, poisoning by manganese silicosis coal miner's pneumoconiosis, asbestososis and bagassosis.

Amount of Compensation.

8. The minimum amount of compensation payable for permanent total disablement is Rs. 1,400 and the maximum is Rs. 14,000. A workman whose monthly wages do not exceed Rs. 10 gets Rs. 1,400. The amount increases with increase in monthly wages, and a workman whose wages exceed Rs. 400 gets Rs. 14,000. For permanent partial disablement the amount of compensation payable is proportionate to the percentage of loss of earning capacity. For death of a workman the amount payable to his dependants varies from Rs. 1,000 to Rs. 10,000. Compensation not be assigned, attached or changed.

9. No lump sum or half monthly payment can be assigned or charged or be liable to attachment or pass to any person other than the workman nor can any claim be set off against the same.

Notice of claim.

10. No claim for compensation will be entertained by a Commissioner unless notice of the accident is given in the prescribed manner as soon as practicable after the happening thereof. The claim must be preferred within two years of the occurrence of the accident or in case of death within two years from the date of death.

Commissioner has power to entertain an application made after the expiry of the period of limitation if sufficient cause is shown for delay in making it.

Contracting.

11. If any person (principal) contracts with any other person (contractor) for the execution of any work which is ordinarily part of the trade or business of the principal the principal is liable to pay compensation under the Act to a workman employed directly by the Contractor. The principal who is liable to pay compensation is entitled to be indemnified by his contractor.

Contracting out.

12. Any contract or agreement whereby a workman relinquishes any right of compensation from the employer for personal injury is null and void.

Appearance of parties.

13. Any appearance or application on behalf of a party before or to a Commissioner can be made by the following persons if authorised in writing by such party :—

- (1) a legal practitioner; or
- (2) an official of an Insurance Company; or
- (3) an official of a registered Trade Union; or
- (4) an inspector appointed under the Factories Act or the Mines Act; or
- (5) By any other officer specified by the State Government in the behalf, or
- (6) by any other person with the permission of the Commissioner."

By Order of the Administrator.

A. D. DESAI
Secretary to the Administrator,
Dadra and Nagar Haveli, Silvassa.